

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CIVIL CASE NO. 1:12cv167**

**STEVEN J. NEWMAN,**

**Plaintiff,**

**vs.**

**CAROLYN W. COLVIN,<sup>1</sup>**

**Acting Commissioner of Social Security,**

**Defendant.**

**ORDER OF REMAND**

**THIS MATTER** is before the Court on the Defendant's Assented to Motion for Entry of Judgment Under Sentence Four of 42 U.S.C. Section 405(g) with Reversal and Remand of the Case to the Defendant [Doc. 15].

Sentence Four of 42 U.S.C. §405(g) provides, in pertinent part, that "[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." The parties here have moved for reversal of the decision of the Defendant and for remand for further administrative proceedings.

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<sup>1</sup> Carolyn W. Colvin was named Acting Commissioner of Social Security on February 14, 2013

Upon remand to the Commissioner, the Appeals Council shall instruct the Administrative Law Judge (ALJ) to: (1) further consider the Plaintiff's residual functional capacity by evaluating the treating source, non-treating source and non-examining source opinion and to indicate the weight assigned to each such opinion evidence; (2) further consider the determination of the United States Veterans' Administration in a manner consistent with Social Security Ruling 06-03p; and (3) if warranted, obtain supplemental vocational expert evidence to whether there are a significant number of jobs in the national economy that the Plaintiff can perform. Upon the completion of these directives, the ALJ shall issue a new decision. The Court finds remand is appropriate. Melkonyan v. Sullivan, 501 U.S. 89, 111 S.Ct. 2157, 115 L.Ed.2d 78 (1991).

### **ORDER**

**IT IS, THEREFORE, ORDERED** that the Plaintiff's Motion for Summary Judgment [Doc. 12] is hereby **DENIED** as moot.

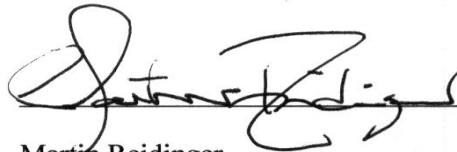
**IT IS FURTHER ORDERED** that the Defendant's Assented to Motion for Entry of Judgment Under Sentence Four of 42 U.S.C. Section 405(g) with Reversal and Remand of the Case to the Defendant [Doc. 15] is hereby **GRANTED**.

**IT IS FURTHER ORDERED** that the decision of the Commissioner of Social Security is hereby **REVERSED** and the case is hereby **REMANDED**.

**IT IS FURTHER ORDERED** that upon remand, the Commissioner shall comply with the directives contained within this Order.

The Clerk of Court shall enter separate Judgment of Remand simultaneously herewith. The Clerk of Court is notified that this is a final judgment closing the case.

Signed: April 11, 2013

  
Martin Reidinger  
United States District Judge

